

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

MATTHEW HOLLICE GILBERT,

Plaintiff,

v.

LIBERTY COUNTY, *erroneously named*
Liberty County Sheriff's Department;
SHELLY A. EDWARDS, DEPUTY;
MICHAEL G. BENTLEY, JR, DEPUTY;
AND CHARLES DAIGLE, DEPUTY,

Defendants.

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CIVIL ACTION NO. 1:23-CV-000122-MJT-ZJH

JUDGE MICHAEL TRUNCALE

ORDER ADOPTING REPORT AND RECOMMENDATION

On March 28, 2023, the Court referred this case to the Honorable Zack Hawthorn, United States Magistrate Judge. [Dkt. 4]. Pending before the Court is Defendants' *12(b)(6) Motion to Dismiss Plaintiff's Original Petition*. [Dkt. 5]. On January 18, 2024, Judge Hawthorn issued his Report and Recommendation, which recommends granting Defendants' *Motion to Dismiss* with respect to Plaintiff's claims against the Liberty County Sheriff's Department, Liberty County, and Eighth Amendment claims against all defendants because Plaintiff failed to state a claim upon which relief could be granted for those claims. [Dkt. 14 at 7]. Judge Hawthorn further recommends denying as moot Defendants' *Motion to Dismiss* [Dkt. 5] with respect to Plaintiff's remaining claims not addressed in Judge Hawthorn's Report and Recommendation, subject to reassertion following a *Spears* hearing held before Judge Hawthorn. [Dkt. 14 at 7].

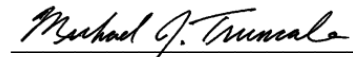
The Court received and considered the Report and Recommendation of the United States Magistrate Judge pursuant to such referral, along with the record, pleadings, and all available evidence. The parties have not filed objections to the Report and Recommendation, and the time

for doing so has passed. *See* 28 U.S.C. § 636(b)(1)(C). After careful review, the Court finds that the findings of fact and conclusions of law of the United States Magistrate Judge are correct.

It is, therefore, ORDERED that Judge Hawthorn's Report and Recommendation [Dkt. 14] granting in part Defendants' Motion to Dismiss is ADOPTED. Accordingly, Defendants' *Motion to Dismiss* [Dkt. 5] is GRANTED with respect to Plaintiff's claims against the Liberty County Sheriff's Department, Liberty County, and Eighth Amendment claims against all defendants. Accordingly, Plaintiff's claims against the Liberty County Sheriff's Department, Liberty County, and Eighth Amendment claims against all defendants are DISMISSED WITH PREJUDICE.

Defendants' *Motion to Dismiss* [Dkt. 5] is DENIED as MOOT with respect to Plaintiff's remaining claims not addressed in Judge Hawthorn's Report and Recommendation, subject to reassertion in light of Judge Hawthorn's order directing Plaintiff to amend his complaint.

SIGNED this 4th day of March, 2024.



Michael J. Truncala
United States District Judge